

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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NADIA SERRANO,

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| DATE FILED: 4/13/17  |

Plaintiff,

- against -

O R D E R

MCKENNA C. QUINDLEN and JUDY  
VOLPI-QUINDLEN,

16 Civ. 7548 (NRB)

Defendants.

-----X  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

**WHEREAS** on July 22, 2016, plaintiff brought this action in New York County Supreme Court to recover for alleged damages related to a motor vehicle accident; and

**WHEREAS** defendants subsequently removed the action to this Court; and

**WHEREAS** on March 15, 2017, plaintiff filed a motion for partial summary judgment on liability (the "Motion"), ECF No. 12, arguing that defendants are liable because defendant McKenna C. Quindlen operated a vehicle that rear-ended the stopped vehicle in which plaintiff was a passenger; and

**WHEREAS** under New York law "[i]t is well settled that a rear-end collision with a stopped vehicle establishes a prima facie case of negligence on the part of the driver of the rear vehicle," Tutrani v. County of Suffolk, 10 N.Y.3d 906, 908, 891 N.E.2d 726, 727 (N.Y.

2008) (internal quotation marks omitted), which shifts the burden to "the operator of the moving vehicle . . . to rebut the inference of negligence created by an unexplained rear-end collision," Lopez v. Minot, 258 A.D.2d 564, 564, 685 N.Y.S.2d 469 (N.Y. App. Div. 2d Dep't 1999); and

**WHEREAS** "[i]f the operator cannot come forward with any evidence to rebut the inference of negligence, the plaintiffs may properly be awarded judgment as a matter of law on the issue of liability," id.; and

**WHEREAS** the time for defendants to oppose the motion has expired; and

**WHEREAS** defendants' counsel has represented to the Court that no opposition will be filed; and

**WHEREAS** plaintiff does not allege that defendant Judy Volpi-Quindlen operated the moving vehicle at issue; it is hereby

**ORDERED** that plaintiff's motion for partial summary judgment on the issue of liability as to defendant McKenna C. Quindlen is granted; and it is further

**ORDERED** that plaintiff's motion for partial summary judgment on the issue of liability as to defendant Judy Volpi-Quindlen is denied; and it is further

**ORDERED** that the parties are directed to submit a proposed scheduling order to the Court by April 25, 2017.

Dated: New York, New York  
April 13, 2017

  
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NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE